

REMARKS

In the Office Action of Paper No. 6, the drawings were objected to for failing to show every feature of the invention specified in the claims. Additionally, claims 1-12 were rejected on their merits in view of the prior art of record.

In response, Applicant has amended the drawings by including Figure 2, which shows a sectional view of the test member shown in Figure 1. Accordingly, Applicant has also amended the specification to include a description of Figure No. 2 and to add reference numerals referring thereto. Additionally, Applicant has cancelled claims 1-12 and added new claims 13-19. Applicant submits that these amendments add no new material to the application and are fully supported by the application as filed. In regard to the prior art of record, Applicant submits the ensuing remarks in support of the allowability of the presently pending claims thereover.

Claims 13-19 Are Not Anticipated Nor Obvious In View Of WO99/13101

Independent claim 13 requires, among other things, a test member comprising a working area that comprises a plurality of electrodes. The working area has a total thickness between an upper most portion of the top surface of the test member in the working area and a lowermost portion of the bottom surface in the working area. The adjacent nonworking area has a total thickness between an upper most portion of the top surface of the test member in the nonworking area and a lowermost portion of the bottom surface of the test member. Claim 1 requires the total thickness of the nonworking area to be greater than the total thickness of the working area.

The electrodes strip disclosed in WO99/13101 (hereinafter the 101 reference) fails to disclose the above-mentioned limitations of claim 1. In particular, the electrodes of the test member of the 101 reference are positioned beneath the cover layer 13 and mesh layer 10. Thus, the electrodes of the test member of the 101 reference are not beneath the area exposed by the aperture 14 of the cover layer 13. As such, the test member of the 101 reference is

configured to receive blood through the aperture 14 which is then drawn horizontally along the sample flow channel 30 to the electrodes. Thus, the working area of the test member of the 101 reference includes the cover layer 13. As such, any working area of the test member of the 101 reference that includes the electrodes must be located at an area where the test member is at its maximum thickness. It follows then that the total thickness of the non-working area of the test member of the 101 reference can not be greater than the total thickness of its working area, and that the test member of the 101 reference therefore can not possibly read on claim 13 and make obvious the limitations of claim 13.

The purpose of the test member of claim 13 is to insure that when the test member is sandwiched in a vertical stack of identical test members, the working area of the test member will not engage an identical test member position immediately thereabove. This is not achieved by the test member of the 101 reference since the cover layer 13 would engage an identical test member positioned in a stack thereabove. Moreover, it would not be obvious to modify the test member of the 101 reference in accordance of the claim 13 because the cover layer 13 overlays the electrodes and therefore necessarily protects the electrodes from damage. Thus, increasing the thickness of areas surrounding the working area of the test member of the 101 reference would increase manufacturing costs, without providing any benefit.

Because the test member of the 101 reference fails to disclose or suggest each and every limitation of claim 13, claim 13 is not obvious nor anticipated by the 101 reference. It follows then that claims 14-19, being dependent upon claim 13, are also not anticipated nor obvious in view of the 101 reference.

CONCLUSION

In view of the above, Applicant submits that the claims presently pending in this application are allowable over the prior art and that this application is now in condition for allowance.

Respectfully submitted,
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